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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ FAO 112/2018, CM APPL. 11975/2018, CM APPL. 11976/2018
CM APPL. 11977/2018, CM APPL. 11978/2018

M/S CAPITAL VENTURES PVT LTD Appellant

Through: Mr. Salman Khurshid, Senior Advocate
with Mr. Zafar Khurshid Mr. Nalin Kohli, Mr.
Mohan Vidhani, Ms. Vishakha Ahuja and Mr.
Ashish Singh, Advs.

versus

KRBL LTD & ORS Respondents

Through: Mr. Akhil Sibal, Sr. Advocate with Mr.
S.K. Bansal and Mr. Ajay Amitabh Suman, Advs.
for R-1.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

% **03.04.2018**

The appellants have impugned an order dated 18.05.2017 passed by the learned ADJ, Patiala House Courts, New Delhi in T.M. No. 106/2017, which was modified by order dated 17.07.2017, injuncting the appellants from using trade dress "PARLIAMENT CLASSIC SAPPHIRE BASMATI RICE" for export of basmati rice. The order was *ex-parte*. The appellant's application under Order XXXIX Rule 4 CPC has been pending since 30th October, 2017. It is contented that this lapse of five months is causing them irreparable damage i.e. they are not able to execute the orders for export of rice to various countries. The appellant states that the requisite documents in this regard will be filed before the Trial Court.

It is the appellants' case that their trade dress is nowhere similar to that of the respondent, let alone it being deceptive. Their trade

name is "PARLIAMENT CLASSIC SAPPHIRE BASMATI RICE" along with a picture of farmers working in a paddy field with hills in the background, whereas the trade dress of the respondent is entirely different. The trade name of the respondent is "INDIA GATE BASMATI RICE CLASSIC" with an entirely different picture and colour combination in the background; it depicts horse chariot, etc.

The learned Senior Advocate for the appellants submits that the respondents/plaintiffs filed a suit and withdrew it with liberty to file a fresh one with better particulars. The subsequent suit though filed a week or so later, did not specify the additional documents which were sought to be adduced. He submits that there was no actual urgency in the matter for the plaintiffs, and this is evident from the fact that the Local Commissioner appointed by the Court was discharged many months later.

After some arguments, the learned counsel for the appellant submits upon instructions, that without prejudice to the appellant's rights and contentions, it would pursue the matter before the Trial Court, but requests that a direction be given that the application under Order XXXIX Rule 4 CPC be disposed off within a period of two weeks of the case being taken up by the Trial Court, especially in view of the fact that the interim *ex-parte* stay is in operation since 18.05.2017.

In view of the above, depending upon the cases listed before it, the Trial Court is requested to dispose-off the application within two weeks of it being listed before it.

The parties shall appear before the Trial Court on 12.04.2018.

Nothing stated in this order shall be deemed to be an adjudication on the merits of the case.

A copy of this order be given *dasti*, to the learned counsel for the parties, under the signature of the Court Master.

NAJMI WAZIRI, J

APRIL 03, 2018/acm